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New York

President:	Mr. Türk	(Slovenia)
Members:	Argentina	Mr. Petrella
	Bahrain	Mr. Buallay
	Brazil	Mr. Fonseca
	Canada	Mr. Fowler
	China	Mr. Shen Guofang
	France	Mr. Dejammet
	Gabon	Mr. Moungara-Moussotsi
	Gambia	Mr. Jagne
	Malaysia	Mr. Hasmy
	Namibia	Mr. Theron
	Netherlands	Mr. van Walsum
	Russian Federation	Mr. Gatilov
	United Kingdom of Great Britain and Northern Ireland	Sir Jeremy Greenstock
	United States of America	Mr. Burleigh

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Such Violations Committed in the Territory of Neighbouring States

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The meeting was called to order at 11.20 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Such Violations Committed in the Territory of Neighbouring States

The President: I should like to inform the Council that I have received a letter from the representative of Rwanda, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In accordance with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Mutaboba (Rwanda) took a seat at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council decides to extend an invitation under rule 39 of its provisional rules of procedure to Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia and of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Such Violations Committed in the Territory of Neighbouring States.

It is so decided.

I welcome Ms. Del Ponte and invite her to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by the Prosecutor of the International Tribunals for the Former Yugoslavia and for Rwanda.

I now call on Ms. Carla Del Ponte, to whom the Council has extended an invitation under rule 39 of its provisional rules of procedure, in order to brief the Council.

Ms. Del Ponte: Thank you, Mr. President, for inviting me to attend this meeting today. I welcome the opportunity, and hope that during my time in office there will be regular occasions on which the Security Council will find it useful for me to address it.

First, I would like the Security Council to know that I am very proud to have been appointed Prosecutor of the International Tribunals for the Former Yugoslavia and Rwanda. I have only been in office for less than two months and have been generally impressed by the work being done in my own offices and by the activity of the Tribunals as a whole.

As Prosecutor, I am, however, acutely aware of my responsibilities. The task before me is a daunting one, and I need the Council's assistance and its continued support in order to achieve successfully the objectives it has set for me. There can be no doubt that the success of the two International Criminal Tribunals depends upon the active support of the Security Council of the United Nations. The effectiveness and strength of international criminal justice ultimately lies in the Council's hands. The Council expresses the political will of the international community, and it embodies the determination of all civilized peoples to bring to justice those individuals responsible for crimes which are among the most horrible and massive the world has seen in recent years. In creating the two Tribunals, the Council has designed a powerful enforcement mechanism of international humanitarian law. The Tribunals will turn to the Council from time to time when its full weight must be brought to bear on those who refuse to honour the international obligations imposed on them by Chapter VII of the United Nations Charter.

Indeed, the Tribunal has already reported to the Security Council the total defiance on the part of the

Federal Republic of Yugoslavia in surrendering indicted accused. I fear that as a result, Serbia is becoming a safe haven for indicted war criminals who have been accused of serious crimes in Croatia, Bosnia and Herzegovina and Kosovo. This situation cannot be allowed to continue.

Further, we cannot allow, to take another recent example, the Republic of Croatia to withhold its cooperation because of its unilateral decision that the Tribunal has no jurisdiction to investigate the actions of its armed forces in Operation Storm and Operation Flash.

It is essential for the success of the Tribunal that States not be permitted to dictate to the independent Prosecutor what events shall and shall not be investigated. The power to initiate investigations bestowed upon the Prosecutor by this Council is fundamental. It must be preserved; and the judicial process has to be protected from the tyranny of political or ethnic manipulation. The subjects of international criminal law are individuals, not States or entire peoples, and decisions about individual investigations and prosecutions must lie with the Tribunal's Prosecutor. That principle applies with particular force to States that have themselves been involved in the armed conflicts in question, on whose territory the investigations must be carried out.

The Council is already aware of the refusal of Croatia to cooperate over Operations Storm and Flash; and it should also be aware that other requests will also test the attitude of Zagreb towards the Tribunal's work. In connection with a different investigation, my Office is required to conduct certain on-site investigations in Croatia and has requested the Government of Croatia to make the necessary security arrangements in order to provide a safe environment to allow that work to proceed this year. I hope that Security Council intervention will not become necessary for that exercise. I draw it to the Council's attention simply to illustrate that the requirement of State cooperation is a constant one and that it underpins the day-to-day work of our institutions.

Over the last few weeks, I personally have been busy. As the Council may know, I have completed my first visit to the former Yugoslavia; I saw my offices in Skopje, Pristina, Sarajevo, Banja Luka and Zagreb; I met officials in all those locations; I met the Stabilization Force (SFOR) and Kosovo Force (KFOR) Commanders; and I met the Secretary-General's Special Representatives in Bosnia and Kosovo. I went to an exhumation site in Kosovo and to our mortuary in Bosnia, where I saw the results of our exhumations programmes: the human remains of victims. It was an important visit for me, because seeing the many different aspects of our investigations in the field helps one understand the magnitude of the undertaking in which we are engaged. I was pleased to see that the work was being done in a professional manner, even when the conditions were very hard for the teams. So, I am learning.

Very soon I will do the same thing for Rwanda. I will travel to my office there, and I will spend several weeks in Kigali and Arusha. My Rwanda work has begun, and I have already met the Deputy Prosecutor and the Chief of Investigations in The Hague. I have also met the Chief Prosecutor and the Military Prosecutor of Rwanda, as well as the Rwandan Ambassador in Brussels. That was the first time Rwandan officials had visited The Hague, but since then our relations with the Rwandan Government may have been affected by their reaction to an important decision of the Appeals Chamber to release one of the accused and to dismiss the charges against him.

I am very concerned about the circumstances of that case and about the court's findings of delays and violations of the accused's rights. I very much regret that the Office of the Prosecutor has been criticized for not having acted diligently in that prosecution, but until I have spent some time in Rwanda itself, it would be better for me to reserve any further comments about the work of that Tribunal. I would be happy to come back on another occasion to address the Council specifically on Rwanda.

Today, I would prefer to restrict my remarks to the International Criminal Tribunal for the Former Yugoslavia, and I would like to speak about two matters. The first is the issue of arrests. In Bosnia and Herzegovina, where international forces are present, 14 accused have been detained by SFOR since July 1997. Four of these were detained this year. I hope that the momentum will last and that the figures will continue to rise. This record of success is most encouraging, so I will work hard to maintain our level of cooperation with SFOR, and I will continue to press for increasingly strong action against all those accused persons who have not yet been arrested, including those at the highest level.

But there are accused who are beyond the reach of SFOR. Their arrests pose quite a different question. The Tribunal itself can do only so much. I therefore need the Council's help, as well as the support of national Governments and all other key international institutions.

My predecessor was here in this Chamber in September; in their remarks on that occasion, Council members recognized the obligation of the Council, as the parent body of the International Tribunal, to support it. One member went so far as to remark that the Council does not have a very effective record in that regard and that it could be more active on that front. I cannot emphasize enough the importance of the support the Security Council can give the Tribunal. We do not seek it lightly, and I therefore urge the Council to put its full weight behind our efforts when we ask for its assistance and to be creative in finding ways to bring to bear the sort of pressures that will produce results.

Secondly, I would like to say something about Kosovo. Much of our effort this year concerned Kosovo, because we know we had to act quickly before evidence was lost. I can tell the Council that for the past five months we have been working with forensic personnel from 14 countries, who contributed forensic pathology and "scenes of crime" teams. The last of these teams left Kosovo on 31 October. I have now received a preliminary analysis of the first findings, although not all the forensic reports have been completed. I would like to give accurate details today, because some statistics are beginning to appear in the media.

There has been a lot of general speculation about the number of people killed in Kosovo. Some people expect the Tribunal to give the definitive answer. But our task is not to prepare a complete list of war casualties. Our primary task is to gather evidence relevant to criminal charges. Our initial focus, understandably, had to be to investigate those places listed as crime scenes on the indictment against President Milosevic, and other leaders. Our work has, of course, expanded since that early list, but it is still not our mission to compile a complete census of the dead. Nevertheless, my staff have collected some reliable statistics. It may be some time before all the evidence is presented before a court, and there is a legitimate public interest in my giving some indication of the nature of our findings even at this early stage, so I think it is important for me to give the Council some numbers.

We have received reports of 529 grave sites, including sites where bodies were found exposed. As of today, approximately one third of the 529 grave sites have been examined. Work has been completed at 195 sites. In total 4,266 bodies had been reported to be buried in those sites. To date 2,108 bodies have been exhumed. This figure does not necessarily reflect the total number of actual victims, because we have discovered evidence of tampering with graves. There are also a significant number of sites where the precise number of bodies cannot be counted. In these places, steps were taken to hide the evidence. Many bodies have been burned, but at those sites the forensic evidence is nevertheless consistent with the accounts given by witnesses to the crimes. The figures themselves may therefore not tell the whole story, and we would not expect the forensic evidence in isolation to produce a definitive total.

Even so, our work can help establish the total number of dead, and we are already building up the overall pattern of the killing. That pattern is of a large number of relatively small sites. We do not typically find hundreds of people buried together. A few sites did contain the remains of approximately 100 people, but often the number is much smaller; and sometimes the reports of victims buried are not borne out at all. For the Council's information, I have prepared a detailed list of sites and figures for distribution. I am afraid that I cannot give a more detailed breakdown of the age or sex or other characteristics of the deceased.

Many of the bodies, including those of women and children were positively identified, and often the names of individual victims were well known. Our work therefore helps in the sad process of confirming identification, although, again, that is not the primary objective of my Office.

To sum up, we now have in our possession, invaluable documentation of what happened to many people in many places in Kosovo. There is no substitute for this kind of accurate information, because it is evidence that eventually will stand up in a court of law.

We are preparing now for next year, when we would like to be able to complete the investigation of crime scenes and mass graves. I want to complete the forensic examination of all remaining sites as soon as possible. There is a continuing risk that some of the remaining sites may be disturbed before we can examine them. The imperative to work quickly that drove our exhumations this year still exists. We do not know how many bodies we may find. As I have said, we have this year confirmed finding over 2,000 bodies out of a total of 11,334 reported to us. With the same level of resources next year as we have had this year, we can finish the whole forensic programme in a single season. My goal is to complete the task we have begun, and I therefore intend to seek the continued assistance of States contributing *gratis* personnel for the remainder of the

forensic work next year. We cannot leave the job only half-finished.

We therefore still have a lot of work to do, but I do not intend to allow our Kosovo investigations to detract from other prosecutions relating to Bosnia and Herzegovina and to Croatia. The year 2000 will see a full range of activity from the Office of the Prosecutor.

(spoke in French)

The Council is the executive body of the International Tribunal when States do not comply with their duty to cooperate. I am here today precisely in order to ensure that the Security Council intervenes in this urgent matter to make certain that Croatia collaborates and cooperates with us on the documents which we urgently need in order to complete these very important investigations.

These are the most important points which I wish to raise and I would be happy to answer any questions that the Council may have.

The President: I thank Ms. Del Ponte for her comprehensive briefing.

Mr. Petrella (Argentina) *(spoke in Spanish):* I should like to express my appreciation for the presence of Ms. Carla Del Ponte and for the presentation of her report to the Council. The report gives us a very clear and dramatic picture of the difficulties and challenges that the Tribunals for the Former Yugoslavia and Rwanda face. We hope that these briefings will be repeated on a regular basis and that their format continues to be broad so as to benefit the whole membership of the Organization as well as to benefit the cause of justice and international law.

Both Tribunals have completed the stage of institution building and are now fully operational and carrying out their judicial work. The Tribunal for the Former Yugoslavia has exceeded original expectations. The statistics on indictments, trials and detentions contradict the pessimism of those who predicted that the Tribunal would have a purely symbolic role in the administration of justice.

We are well aware of the particular difficulties that the International Tribunal for Rwanda had to overcome in the early stages. Despite those difficulties, that Tribunal also is entering an operational stage and has issued significant judgements, including the first convictions for the crime of genocide since the Convention was adopted in 1948.

As Judge Pillay informed us on Monday in the General Assembly, the Office of the Prosecutor is involved in some 90 investigations and hopes to produce some 20 indictments in 2000.

The jurisprudence and procedures of both Tribunals were taken into account in the course of the negotiations on the Rome Statute and continue to be an important frame of reference for the discussions under way in the Preparatory Commission for the International Criminal Court. Thus, they are already influencing the development of international law.

Despite the fact that there are grounds for satisfaction, it is clear that both Tribunals face significant difficulties and problems, some of them related to organizational and administrative aspects which could be remedied by the Tribunals themselves. In particular, it is important to ensure proper coordination between the Tribunals in order to overcome the difficulties arising from the fact that they share the same Prosecutor and Appeals Chamber.

But the more serious problems, those that affect the very possibility of administering justice, are related to the lack of cooperation on the part of States. It is well known that the main feature of the ad hoc Tribunals is that they lack their own coercive measures. For this reason, they fundamentally and inevitably rely on the cooperation of States. Such cooperation is essential in order to produce evidence and to ensure the arrest and transfer of persons as well as the execution of sentences. Furthermore, it should be remembered that the ad hoc Tribunals are by nature exceptional and they differ from the future International Criminal Court in that they are not complementary to national jurisdictions but have primacy over national systems. The obligation to cooperate with the Tribunals, explicitly spelled out in their statutes, is absolute. Lack of compliance is not simply a violation of the statutes but imperils the very objectives for which these Tribunals were established.

The Security Council cannot remain impassive in the face of this report and the call for action. What is at stake is the credibility of the Tribunals and the authority of the Council. We fully share the concerns that Ms. Del Ponte has just outlined.

In conclusion, it seems to us that we need to underscore the fact that States cannot, for any reason whatsoever, unilaterally suspend their cooperation with the ad hoc Tribunals.

Mr. Dejammet (France) (*spoke in French*): We, too, would like to thank Ms. Del Ponte for the briefing she has just given. France had occasion earlier to pay tribute to the work done by the previous Prosecutor, Mrs. Arbour. We would like to reaffirm today our full confidence in Ms. Del Ponte and to wish her every success in her task, which is daunting indeed. I would also like to recall that Ms. Del Ponte's nomination was welcomed by France.

We are all aware of the scope and complexity of the task of the Prosecutor of the two International Criminal Tribunals. In creating these two Tribunals, the United Nations has established the foundations for a genuine, international criminal system. The Tribunals, in which Ms. Del Ponte now has an essential role, clearly have a decisive part to play in eliminating the impunity of those who perpetrate the most serious of offences. But the Tribunals must reconcile various difficult requirements: the independence of the judiciary, the need to punish those found guilty and the protection of the rights of victims. The Tribunals must therefore always bear in mind as they carry out their work an awareness of what is at stake with respect to the re-establishment of peace, national reconciliation and the rebuilding of a State of law. These are certainly demands and requirements that are not always easy to reconcile. The work of the Prosecutor is therefore very difficult, but also very noble. The task is made all the more difficult by virtue of the fact that it is being carried out in two different theatres of operations — the prosecution of crimes committed in the former Yugoslavia, on the one hand, and the prosecution of crimes committed in Rwanda, on the other.

The work of the Tribunal in the former Yugoslavia is rather innovative. In the case of Kosovo work began so soon after the commission of crimes that it was, in a manner of speaking, in real time, or current. With the adoption of resolution 1160 (1998) on 31 March 1998 — just after the beginning of violence on the ground — the Security Council in effect charged the Office of the Prosecutor with starting the collection of information about criminal activities in Kosovo that might fall within the jurisdiction of the Tribunal. We have followed up those efforts and, like other members of the Council, France has also lent every possible assistance to the Tribunal by making forensic teams available to it. Ms. Del Ponte has just given us a very exact and thorough account of the work she is doing on the ground in Kosovo and of the very tragic situations that she is in the process of addressing.

The work of the Rwanda Tribunal is equally important and difficult. We therefore appreciate Ms. Del Ponte's intention to go to Rwanda very soon. We have no doubt that her presence on the ground there will help settle many problems that have arisen and that she will give new impetus to the activities of that Tribunal, as she did in the case of Kosovo.

We would like to reiterate France's support for the work of the Prosecutor in connection with the Rwanda Tribunal. We have tried to demonstrate our support in material terms by providing audio-visual equipment for two hearing rooms. This material support is important because the work of the Prosecutor depends in part upon the resources that are placed at her disposal. In this connection, we would like to know how the Prosecutor feels about the material, financial and human requirements of her Office.

As the representative of Argentina has said, the success of the Prosecutor and of the Tribunals basically depends upon the cooperation of Member States. The remarks made by Ms. Del Ponte about the attitude of some States is a matter of serious concern to the Security Council as a whole. We must all be aware that the cooperation of States with the Tribunals is a legal obligation of every Member State of the United Nations. States do not have the luxury of suspending their cooperation with the Tribunals or refusing to cooperate in one case or another. These are legal obligations, a point recalled by Ms. Del Ponte and one that the Security Council must, and indeed does, recall regularly.

Finally, the success of the Tribunals and of the Prosecutor also depends upon the soundness of the legal framework within which they carry out their missions. In this connection, we are pleased at the effort made by the Tribunals, at the urging of the Prosecutor, to improve procedures by drawing from various legal systems for inspiration. I think it is a good idea to seek to base Tribunal actions on existing legal systems and to make use of the most effective aspects of the various major legal systems of the world today.

Mr. Fowler (Canada): Canada is pleased to join previous speakers in welcoming Ms. Del Ponte to the Security Council today and wishing her every success in her vitally important task. These two Tribunals play an extremely important part in the promotion of international peace and security. We regard their work as essential in ending the cycle of violence and impunity that has had such an impact on the Council's agenda of late. We welcome the emphasis that the Prosecutor has placed on pursuing high-level civilian, police and military leaders

responsible for crimes under the jurisdiction of the International Criminal Tribunals' Statutes.

In 1993 and 1994 Canada welcomed the creation of the two Tribunals as an innovative and progressive step by the Council towards a broader definition of security. By establishing the Tribunals, the Security Council — a body traditionally focused on inter-State security issues — recognized that gross and systemic human rights abuses within States also merit a forthright response by the international community. The Tribunals are a signal that such abuses will not be allowed to stand and, as such, serve an important norm-reinforcing function. They also provide a deterrent to would-be violators by demonstrating that there must be accountability for genocide, for war crimes and for crimes against humanity.

We are pleased with the Tribunals' success not only in obtaining custody over high-ranking accused persons and completing trials, but also in providing ground-breaking decisions. We are also pleased that the Stabilization Force and the Kosovo Force continue to provide the support for the work of the International Criminal Tribunal for the Former Yugoslavia in the Balkans, including in the protection and preservation of evidence.

Clearly, however, much more support from the international community is needed. Many alleged war criminals remain at large, and some States still refuse to cooperate with the Tribunal. As the President of the Tribunal pointed out in her speech to the General Assembly earlier this week, and as Ms. Del Ponte has reaffirmed today, the Council is ultimately responsible for ensuring State compliance. We must send from this Council the message that cooperation is not a choice but a clear obligation for all States, and that this is not an issue which is in any way subject to debate or legal dispute. We reiterate our call, therefore, on all States to fulfil these obligations.

I would be remiss if I did not also stress the extent to which Canada concurs with the point made by Ambassador Petrella that the work of the International Tribunals has contributed significantly to the development of international criminal law and will greatly assist efforts in the Preparatory Commission for the International Criminal Court.

We note the fact that Ms. Del Ponte chose to focus her remarks today on the situation in the Balkans. We do, however, look forward to hearing a similarly detailed report on her findings following her visit to Rwanda.

We commend Ms. Del Ponte on the assumption of the challenging and important post of chief Prosecutor to both Tribunals. We know that this is an extremely challenging and demanding position which involves extreme pressures. We are confident that she will follow the fine tradition established by her predecessors, Richard Goldstone and Louise Arbour, and that the Tribunals will continue to advance the cause of international justice.

Sir Jeremy Greenstock (United Kingdom): We too have warmly welcomed the appointment of Ms. Carla Del Ponte to this task and congratulate her on it, if that is the right phrase for such a daunting responsibility. We are very grateful to her for her briefing this morning.

I am glad to hear that she was impressed by the quality of her staff when she first got to know them, and I think it is right that the Council should pay tribute to the staff of the Prosecutor's Office for what they have done over the past few years. They have broken new ground and have shown us that it is possible to end the culture of impunity. I would like her to take back the message from the Council that we warmly appreciate what the whole staff of the Prosecutor's Office, and the Court as a whole, has done.

We are grateful too for her updating us on the details of what is happening on the Balkan scene and in Kosovo in particular. There have been, I think, some misstatements about the volume and the intensity of the abuses that occurred during the conflict earlier this year, and we are glad that she is paying immediate attention to that.

The United Kingdom remains strongly committed to the Tribunals and fully supports the Office of the Prosecutor and her investigation of atrocities in bringing the perpetrators of crimes against humanity to justice. I think the United Kingdom has done as much as any individual nation actually to take steps to help bring indictees before the court, and it will continue to do so, particularly in the Balkan sphere. We have heard her appeal also for the need for forensic work now in Kosovo; we are helping, and will continue to help, in that.

As others have said, it is the duty of States to hand over the Tribunal's custody all those indictees residing in their territory, in accordance with their obligations under the relevant Security Council resolutions. It is important that they comply with Tribunal orders without undue delay. We remain particularly concerned that indictees

remain at large in Republika Srpska and in the Federal Republic of Yugoslavia.

The Serbian performance in this respect has been the least satisfactory of all. Croatia also has been at times dilatory, though at times also responsive about compliance with the court, and the court wants us to remain — and we should remain — in direct communication with Croatia to make sure that it responds. We are particularly insistent that Croatia should extradite the indictee Mladen Naletilić to The Hague as soon as possible, and that the Croatian Government should make progress on handing over documents on Operation Storm and Operation Flash without delay, to the satisfaction of the Court.

In this respect, I think we have to take rather sharper notice among ourselves that the Security Council has a responsibility to ensure that States live up to their obligations. Just as the court is breaking new ground in this area, so is the Security Council. In the expectation that we shall soon have an International Criminal Court coming into being and being operationally active, we have to discuss further the obligation on the Security Council to make sure that the Statutes are implemented.

The United Kingdom is concerned also at the recent announcement by the Government of Rwanda to suspend cooperation with the Tribunal for Rwanda. We hope that both the Tribunal and the Government of Rwanda will continue to work together and to maintain dialogue. We note that before the Rwandan Government took this decision, the Government and the Tribunal were beginning to work more effectively together. We hope that the visit by the Prosecutor and the return of her deputy to Kigali will help improve relations to that end.

Again, we thank Ms. Del Ponte for her briefing this morning. We hope that these briefings will be a regular feature, and we look forward to seeing her return to the Council.

Mr. Shen Guofang (China) (*spoke in Chinese*): First of all, I should like to thank Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda, for her briefing today.

We have taken note of the achievements registered by the two Tribunals over the past year. We attach particular importance to the way in which the International Criminal Tribunal for Rwanda interpreted and applied the 1948 Convention on the Prevention and Punishment of the Crime of Genocide in its judgment on the Akayesu case.

We are aware that these advances are being made by the two Tribunals at a time when they are facing tremendous difficulties and challenges. We have noted also that there is still room for improvement in their work, *inter alia* the disputes between the States and the Tribunals in the field of cooperation. Both Tribunals were established by Security Council resolutions; the countries concerned should therefore cooperate with them, in accordance with the relevant Security Council resolutions, the Statutes of the Tribunals, and their national laws.

The Tribunals, in requesting cooperation from the States concerned, should also take into consideration the public interests and security of those countries. They should also respect the national laws of those States. Failing that, the Tribunals will continue to face daunting tasks in future. We sincerely hope that their work will be professional, objective, impartial and free from any political interference.

In conclusion, I should like to reiterate that China continues to support the work of both Tribunals.

Mr. Gatilov (Russian Federation) (*spoke in Russian*): We join other delegations in welcoming Ms. Carla Del Ponte and thank her for her briefing.

Russia supports the work of the International Criminal Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda, and we call for the appropriate punishment of those who have committed war crimes in the course of conflicts in the territory of the former Yugoslavia and of those who have committed serious violations of humanitarian law in the territory of Rwanda.

We believe that the work of the Rwanda Tribunal is a substantial factor in the maintenance of peace and calm in that country and in neighbouring regions. Sentences handed down by the court are very important politically, and they also make a real contribution to the development of international criminal law. Russia supports the efforts to deal with the organizational, financial and human resource problems experienced by the Rwanda Tribunal, so as to enable it to rapidly discharge the mandate conferred upon it by the Security Council and play its part in eliminating the culture of impunity.

We believe that the establishment of another Trial Chamber will mean that the international community can expect the Tribunal to act more swiftly in order to establish a proper balance in its work and catch up, so to speak, with the Yugoslavia Tribunal. We believe that considerable work remains to be done to enhance the effectiveness of the Rwanda Tribunal. In order to ensure the normal functioning of that International Tribunal, we must continue to improve its procedures, methods of work and structures, and deal with the inadequate supply of qualified jurists and administrative staff. We hope that the Prosecutor's forthcoming visit to Rwanda will help to achieve those objectives.

Turning to the International Criminal Tribunal for the Former Yugoslavia, we firmly believe that its activities must strictly comply with the mandate given it by the Security Council and with the Statute of the Tribunal, the Peace Agreement for Bosnia and the relevant decisions of the Security Council. We support the demands made on all States to comply with international commitments to cooperate with that Tribunal. However, all problems relating thereto must be resolved through direct cooperation between the parties and the Tribunal, as set forth in Security Council resolutions and in the Statute of the Tribunal.

Indictees should not be detained without the consent of the State in whose territory they are found, nor should it result from the undue coercion of those States. We are categorically opposed to sealed indictments. That practice has occurred in connection with the Stabilization Force in Bosnia; it goes beyond the mandate of such forces. The practice should be brought to an end. Furthermore, we believe that the practice should not take place with regard to Kosovo and the Kosovo Force.

We have serious doubts about the propriety of the so-called sealed lists of indictees. Such practices are contrary to the Statute of the Tribunal and to its rules of procedure. The authorities of the States concerned and the indictees themselves are thereby deprived of the opportunity to demonstrate that they are willing to cooperate with the Tribunal. Every action taken to detain a person accused of war crimes must be considered primarily from the point of view of how it might affect international efforts to stabilize the situation in the region and move the peace process forward. We must not allow the work of the Tribunal to be politicized; it must be governed by the letter of the law.

Unfortunately, in the recent work of the Tribunal there have been serious instances in which this principle has been allowed to slide. Examples include the indictment of the leader of Serbia and the Federal Republic of Yugoslavia, and the arrest in Vienna, under a sealed indictment, of the chief of staff of the army of the Republika Srpska, Mr. Talic, who was participating in a seminar in Vienna at the invitation of the Organization for Security and Cooperation in Europe. Such decisions destabilize the situation in Bosnia, Yugoslavia and, indeed, the entire region, and are an additional hindrance to moving the Bosnia and Kosovo settlement process forward.

As for the activities of the International Criminal Tribunal for the Former Yugoslavia in Kosovo, they must be objective and strictly in accordance with the decisions of the Security Council, including resolution 1244 (1999), and with the Statute of the Tribunal. The International Criminal Tribunal for the Former Yugoslavia must actively investigate the scale of the atrocities committed by Kosovar Albanian extremists against Serbs and other non-Albanian peoples in Kosovo th[illegible]hout the Kosovo crisis.

So far, we have noted that the Tribunal has clearly not been able to achieve objectivity, as to date it has focused primarily on investigating crimes committed against Albanians. We believe that this situation should be corrected properly and rapidly, because otherwise there will be grounds for accusing the International Criminal Tribunal for the Former Yugoslavia of double standards, which would certainly not enhance the effectiveness of the Tribunal's work. We expect Ms. Del Ponte to take due account of these matters of principle, and we wish her every success in her work.

Mr. Hasmy (Malaysia): Let me first thank you, Mr. President, for convening this meeting of the Council to hear a briefing by Ms. Carla del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda. My delegation has studied and benefited a great deal from the sixth annual report of the International Criminal Tribunal for the Former Yugoslavia and the fourth annual report of the International Criminal Tribunal for Rwanda, which were addressed to both the Security Council and the General Assembly. We welcome the presence of Ms. Del Ponte in the Council for the first time since her appointment as Prosecutor. We thank her for the succinct but comprehensive briefing that she has just given the Council on the two Tribunals, particularly in respect of the International Criminal Tribunal for the

Former Yugoslavia, which my delegation finds extremely useful.

We believe that the establishment of these two ad hoc Tribunals was an important development in the application of international law with respect to the prosecution of individuals accused of committing war crimes, genocide and crimes against humanity. It gave expression to the universal desire for peace and respect for the rule of law, thereby making international criminal justice a reality and an indispensable element of international relations in our time. It is our hope that with such a system in place the international community will be in a better position to deal with such crimes whenever they occur. Indeed, we dare to hope that an efficacious system of international criminal justice will act as a factor inhibiting the commission of such crimes.

My delegation is pleased to note that the two Tribunals have evolved into fully operational international criminal courts providing for fair trials for the accused while affording protection to victims and witnesses. We commend the manner in which the Victims and Witnesses Section of the Tribunal for the former Yugoslavia and the Victims and Witnesses Support Unit of the Tribunal for Rwanda have handled the important issue of providing protective measures, as well as counselling and support, for witnesses appearing before the Tribunals. We also note that with the close cooperation of a number of States, the Victims and Witnesses Section and Unit have been able to relocate witnesses unable to return to their respective residences after completing their testimony. We believe that this is an important aspect of the work of the Tribunals.

We are concerned by delays in the administration of justice. Accused persons have been in custody awaiting trial for lengthy periods. They must be tried as soon as possible in cognizance of their fundamental right to trial without undue delay. In this regard, my delegation welcomes the amendment of the Tribunals' Rules of Procedure and Evidence, which was aimed at streamlining and expediting the proceedings before the Tribunals. While we recognize that cases must be conducted in the most efficient and expeditious manner consistent with respect for the rights of the accused, we also recognize that the course of justice, conducted in scrupulous compliance with fair trial procedures, is often a slow one. While speed is an important element of efficiency, the quality of the proceedings is of paramount importance.

In this regard, my delegation would appreciate it if the Prosecutor could elaborate on some of the impediments to the conduct of expeditious trials.

The cooperation of States is vitally important for the successful conduct of the work of the Tribunals. This is particularly so with respect to the execution of arrest warrants, provisional detentions and the transfer of suspects and accused persons to the seats of the Tribunals, given the fact that the Tribunals do not have a police force or jurisdiction by which they can independently effect the apprehension of suspects. Clearly, the execution of arrest warrants has been and will continue to be critical to the Tribunals' ability to function effectively. We note that, in the case of the Tribunal for Rwanda, States have been very supportive of the Tribunal, but we regret that this has not been quite the case in respect of the work of the Tribunal for the former Yugoslavia.

We reiterate our serious concern that publicly indicted accused individuals still remain at large. The recent report of the Tribunal for the former Yugoslavia (S/1999/846) indicated that, despite the best efforts of the Tribunal, certain States and entities, principally the Federal Republic of Yugoslavia and the Republika Srpska, continue to obstruct the Tribunal in carrying out its mandate. We agree with Ms. Del Ponte that there should be no safe havens for indicted war criminals.

My delegation calls upon those in a position to do so to make more serious and determined efforts to apprehend and bring to justice those war criminals as soon as possible. Failure to do so would be to send the wrong message to those criminals. It would also, unfortunately, convey a lack of resolve or political will on the part of the international community to deal with these heinous crimes. That is not the kind of message we should be sending.

While arrests of all suspects, including relatively minor characters, are important to the success of the Tribunal, the failure to apprehend those most responsible for the atrocities would cast a dark shadow on the efficacy of the Tribunal. The continued presence of indicted persons in those States and entities, enjoying freedom with impunity, not only sends the wrong message, as I said, but also contributes to sustaining a climate of fear and insecurity that inhibits the return of refugees, particularly in minority areas. The arrest and prosecution of indicted war criminals is not only an issue of justice, but something that would contribute

substantively to the process of healing and reconciliation, and to the attainment and consolidation of peace.

We would like to express our appreciation to Ms. Louise Arbour, the former Prosecutor, for the outstanding way in which she conducted her work during her tenure as Prosecutor. We look forward to working closely with her worthy successor, Ms. Del Ponte, as she carries out her onerous responsibilities.

Malaysia continues to believe that the work of the Tribunals is a vitally important contribution to meting out justice and to the healing process in both regions, which we think will contribute tremendously to strengthening the process of restoring peace, security and stability in these two regions. The Tribunals deserve the unqualified support of the Security Council in all aspects of their work. The Prosecutor of the Tribunals has just made a clear, strong and direct appeal to the Council for such support.

The issue of indicted war criminals still at large and the lack of cooperation extended to the Tribunals must be squarely addressed. The Council must respond appropriately to Ms. Del Ponte's appeal. We cannot disappoint her.

Mr. Burleigh (United States of America): Like other colleagues, I want to thank the Prosecutor, Ms. Del Ponte, for being with us today and for giving us the briefing that we have listened to with great interest. It is our view that regular exchanges between the Tribunals and the Security Council are very welcome, and we look forward to more such exchanges.

We would like to state that already the admirable determination and commitment of Ms. Del Ponte in her new role has been highly appreciated by my Government, and that we have every confidence in her abilities and look forward to a productive working relationship.

I would like also to agree with what Ambassador Greenstock said earlier with regard to our appreciation for the work of the staff of the Tribunals. We appreciate very much their professionalism and dedication, and we hope that Ms. Del Ponte will convey that to them.

The United States, like other colleagues, is deeply concerned about reports of Member States failing to comply with Security Council resolutions. We share the view of other colleagues that it is essential for all Governments to fulfil those obligations, and we thus reiterate the call on all States to cooperate fully with the Tribunals and their organs: specifically, to execute the arrest warrants transmitted to them by the Tribunals and to comply with requests for information and investigations.

In the case of the International Tribunal for the former Yugoslavia, I would like to say that we agree with most of what we have heard from our colleagues this morning, and in particular most recently from Ambassador Hasmy: that one of the greatest challenges confronting the Tribunal for the former Yugoslavia is obtaining custody of indictees still at large. Serbia has made this difficult to achieve by offering de facto sanctuary to indicted fugitives. We agree with the Prosecutor's characterization this morning of the attitude in Belgrade as one of "total defiance". It is our view that this cannot be accepted by the international community.

The Security Council must stand firm in its insistence that Serbia transfer indictees, including the "Vukovar Three", General Mladić, "Arkan" and, ultimately, Slobodan Milošević and his co-indictees. We also believe that it is imperative that Radovan Karadžić face justice before the International Tribunal for the former Yugoslavia. Those indictees not yet in custody must understand that there is absolutely no safe haven for them. We thus do not agree with some of the points made this morning by our Russian colleague on this point.

With regard to Kosovo, it is our view that the Tribunal's work there is of fundamental importance, and we appreciate very much the preliminary status report today. We understand the difficulty of the challenge and also its scope, and if there are additional resources which are needed, including gratis personnel, we hope we will hear directly from the Tribunal about those needs — and we need to hear loudly and clearly from the Tribunal about them.

With regard to Croatia, while we welcome recent cooperation on one important case, there is much work left to be done. We support the International Criminal Tribunal for the Former Yugoslavia's request for cooperation on Operations Storm and Flash, and we strongly urge the Government of Croatia to comply promptly.

In the case of the International Criminal Tribunal for Rwanda, like other colleagues, we note with regret that the Government of Rwanda has suspended cooperation with the Tribunal over a recent court decision, as we

understand it. We understand Rwanda's frustration, but we hope that the Government of Rwanda will reconsider its decision and continue relations with the Tribunal.

We hope the Tribunal in turn can also speed up its work with regard to its responsibilities in Rwanda, and, like Ambassador Fowler, who spoke earlier, we would welcome a report or would like to hear some kind of summary of the opinions and assessment of the Prosecutor after she completes her upcoming trip to Rwanda, which will be her first visit to that country that is important part of her responsibilities.

Like many of our colleagues, we are troubled by the assertion, which we read about and hear about from time to time, that the Security Council is not providing adequate support to the Tribunals, whether political, material or budgetary support. We would like to state here — we have heard similar statements from several of our colleagues — that the United States would support measures in the Council that Council colleagues believe would be effective in improving compliance with the orders of the Tribunals. We also recognize that there are a lot of challenges remaining before the Tribunals, and we are determined to help the Tribunals fulfil their mandates fully. To do this, Member States must provide the Tribunals with sufficient financial and material support. In that regard, it is our hope that the budget requests for the two Tribunals for calendar year 2000 will be approved expeditiously.

Finally, let me thank Prosecutor Del Ponte again for being with us today. I hope that her relationship with the Council will be a regular and close one. In particular, we would welcome hearing about her impressions once she returns from the Rwanda Tribunal.

Mr. van Walsum (Netherlands): Mr. President, the Netherlands joins you and other members of the Council in welcoming Ms. Del Ponte and thanking her for her informative briefing. It really goes without saying that we support her, as we strongly support both the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

As was emphasized by Ms. Del Ponte and other speakers, one of the main issues that the Council should address is State non-compliance with article 29 of the Statute of the International Criminal Tribunal for the Former Yugoslavia. The Netherlands has taken note of President Kirk McDonald's letter of 2 November to the President of the Security Council, including the shockingly long list of reports in the annex to that letter.

In our view, the Tribunals play a particularly important role in the maintenance of peace, justice and reconciliation. They also serve as a trial ground where we are learning important lessons for later use in the establishment of the International Criminal Court. For the Prosecutor to be truly independent, she must be able to perform her duties without hindrance, relying on the full support and cooperation of all States. In this respect, the Netherlands regrets that certain States and entities have consistently failed to meet their responsibility to cooperate with the Tribunal.

Our obvious focus on the non-compliance of the Federal Republic of Yugoslavia, whose President has been indicted by the Tribunal, should not diminish our concern at Croatia's failure to comply with the request of the Prosecutor to hand over documents on Operations Flash and Storm. Although we acknowledge that Croatia has a better record than the Federal Republic of Yugoslavia, Croatia should reconsider its position and comply without delay. These matters cannot remain unresolved.

Would Ms. Del Ponte be in a position to tell the Council a little more about her discussions with the Croatian authorities on this matter? Does the Government of Croatia realize that this issue will not simply go away? The Croatian insistence that Operations Flash and Storm were legitimate is beside the point. What needs to be investigated is whether crimes were committed during these operations. No military action, no matter how justified, is exempt from that scrutiny.

Finally, we would like to wish Ms. Del Ponte every success in the performance of her duties.

Mr. Fonseca (Brazil): I wish to thank the Prosecutor for her briefing and to congratulate the presidency for convening this important meeting. It is indeed useful for the Security Council to hear a briefing by the Prosecutor just a few days after the General Assembly debated the reports of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda.

Brazil joins other delegations in expressing its satisfaction at having Ms. Del Ponte in the Security Council for the first time. We hope to have dialogues like this in the future as well.

We take this opportunity to reiterate our support for her work and our conviction that Ms. Del Ponte will be

able to build upon the good foundations laid by her predecessor, Mrs. Arbour.

I will address very briefly some aspects of the Prosecutor's work in the International Criminal Tribunal for the Former Yugoslavia.

Brazil agrees that the degree of success of the Prosecutor's work depends to a large extent on the cooperation she receives from Member States, in particular the States and entities of the region. We consider that any kind of obstruction or non-compliance is not to be tolerated. The work of the Tribunal should be free of political considerations, and the difficulties in her work that she has just mentioned are reason for grave concern, especially the resistance of States to accepting the jurisdiction of the Tribunal and the provision of de facto sanctuaries for indicted criminals. In this regard, the presence of Ms. Del Ponte here today is extremely useful for showing the international community that the Security Council supports the office of the Prosecutor effectively.

The challenges facing Ms. Del Ponte, as well as the attention devoted to her work by the international community, were considerably increased by the events in Kosovo. The preliminary findings in Kosovo are showing how imperative the creation of the Tribunal was, not only as an instrument for justice to be done, but also as a foundation for the reconciliation of the people of Kosovo.

I would like also to mention very briefly the International Criminal Tribunal for Rwanda. I welcome the fact that the Rwanda Tribunal was able to deliver, in the period covered by the report, its first four judgements, including the historical, ground-breaking conviction of Akayesu for genocide and crimes against humanity.

The task of the Prosecutor is a difficult and noble one. In her work the best ideals of an international order founded on law and justice find clear expression. That is why the Security Council, and, indeed, the entire international community, has an ethical and legal obligation to support the work of the Prosecutor.

I wish you, Ms. Del Ponte, all success in your work from now on.

Mr. Jagne (Gambia): My delegation is grateful to the Prosecutor, Ms. Carla Del Ponte, for her comprehensive briefing and for the amount of work she has done so far since taking office. We anxiously look forward to her visit to Rwanda, and we will reserve our comments on the work of the Rwanda Tribunal until she has the opportunity to visit that country.

We are tempted, though, to commend a number of African countries for their cooperation with the Rwanda Tribunal. It is as a result of such cooperation that during previous briefings the relative success of the Rwanda Tribunal was mentioned.

What do we learn from this? The answer is simple. The cooperation of States is indispensable. Otherwise, there is very little that these Tribunals can do to bring these criminals to justice. This is why we believe that, with regard to the Tribunal for the former Yugoslavia, the States concerned should cooperate with the Prosecutor by arresting without further delay the war criminals who have been indicted. If safe havens continue to be provided for those on the run, our collective endeavour to promote international criminal law will be seriously undermined, and, indeed, the powerful mechanisms for the enforcement of international humanitarian law, which these two Tribunals are meant to embody, would end up devoid of any *raison d'être*.

We note with satisfaction that the Stabilization Force (SFOR) is cooperating with the Office of the Prosecutor, but we deplore the fact that some indictees are beyond the reach of SFOR because they are being given protection by some States. The forensic and other evidence gathered so far is compelling enough to convince those States that are swimming against the tide to change their minds and cooperate with the Office of the Prosecutor. If not, this Council should assume its responsibility fully.

We can understand why the Prosecutor emphasized that her Office is not seeking the Council's support lightly. We hope that the Council's support will not be found wanting. Let us not let her down. We cannot afford to let her down.

We hope that the Prosecutor's appeal will not fall on deaf ears this time. We wish Ms. Del Ponte success in her endeavour.

Mr. Buallay (Bahrain) (*spoke in Arabic*): Given the impressive number of mass graves and victims found in Bosnia and Herzegovina and Kosovo, the number of individuals indicted seems remarkably low. If we consider the massacres and the savage brutality of the acts that have been committed, the question that arises is, what seems to be the problem? Why is there such a clear

imbalance between the number of victims and the number of individuals who have been indicted and brought to trial? This is especially true in the case of high officials and leaders. The commanders who directed these massacres in Bosnia and then reappeared in Kosovo remain at large. Have modern investigative methods, including the use of satellite technology, proved powerless in identifying these people, or are there some parties that do not wish to bring them to justice? What are the true reasons? We are bound to note in this regard that when it comes to bringing these people to justice the system appears to be very soft, and the evidence will likely disappear over time.

Ms. Del Ponte, like her predecessor, has told us that it is often impossible to rely on the cooperation of States that are in a position to give information concerning the indictees, with a view to bringing them to justice. She has reported that these States do not always provide the evidence requested of them, a matter we cannot understand.

We also fail to understand this kind of justice that is based on tardy cooperation with the Tribunal that the Council set up for this purpose. Do we need more convincing evidence than the mass graves? We know that there are victims who were killed under the most appalling circumstances, reminiscent of the Dark Ages. We would like to warn against these tendencies of delay, leniency and non-cooperation with the Tribunal, which can only have gravely detrimental effects.

We would like to sound an alert concerning the criminals who remain at large and who, unfortunately, would not be deterred from committing other horrible crimes if not brought to justice. This situation must not be allowed to continue.

Mr. Moungara-Moussotsi (Gabon) (*spoke in French*): We, too, would like to thank Ms. Del Ponte for the report she has just made to the Council, and we encourage her in her initiative to visit the former Yugoslavia and, soon, Rwanda.

In our opinion, it is undeniable that the establishment of the International Criminal Tribunals in order to deal with serious violations of human dignity represented the absolute rejection of the culture of impunity in connection with any kind of atrocities, wherever they may occur. The violations of human rights that occurred in the Balkans and in Rwanda took place in deliberate defiance of the world's conscience. Therefore, it is perfectly logical, proper and legitimate that the international community, through the Security Council, should have set up these two bodies.

Accordingly, my delegation believes that all States have a duty to cooperate fully with the Tribunals without seeking in any way whatsoever to influence the way they operate. We would like to pay a well-deserved tribute to the Stabilization Force for its work in the arresting of criminals, and we thank those countries that have contributed to investigations. For its part, my country, which appreciates the two Tribunals' commendable work, will do its best to cooperate fully.

In conclusion, I would be remiss if I did not wish Ms. Del Ponte every success in her work.

Mr. Theron (Namibia): May I commend you, Mr. President, and your delegation for organizing this important meeting. We would also like to welcome Ms. Carla Del Ponte and thank her for her useful briefing.

My delegation attaches great value to the work of the International Criminal Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda. We commend the Prosecutors, Judges and staff of the Tribunals for their efforts to promote justice, and we encourage them to continue. We appreciate Ms. Del Ponte's active personal involvement in the pursuit of justice, and we think the visit she intends to make to Rwanda will give added impetus to this cause.

As Ms. Del Ponte has correctly stated, the effective functioning of the Tribunals is subject to the cooperation of Member States. We therefore call for the continued cooperation of Member States in the execution of arrest warrants and in effecting the relocation of witnesses to third-party States. Similarly, the appeal of the Secretary-General for the provision of prison facilities for the incarceration of persons convicted by the Rwanda Tribunal should also be positively considered by those Member States that are in a position to do so. It is absolutely essential that both Tribunals be provided with the necessary resources to carry out their mandates.

Lastly, my delegation, like that of Canada and others, also looks forward to a more detailed report from Ms. Del Ponte following her visit to Rwanda.

The President: I thank the representative of Namibia for his kind words addressed to me.

I shall now make a statement in my capacity as the representative of Slovenia.

I should like to start by joining other colleagues on the Council in their expressions of appreciation to Ms. Del Ponte for her very substantive briefing. Like many others, we are looking forward to her further briefings, including in particular her report on her visit to Rwanda, which I hope will give another opportunity for a meeting of the Security Council with Ms. Del Ponte, so that the issues relating to that Tribunal can be fully discussed. We also agree with the many expressions of support that Ms. Del Ponte has received in the course of the discussion today.

The evolution of the Tribunals and the work of the Prosecutors has been impressive so far. I think that that is the basic point which needs to be stressed. In a very short time, important and effective judicial institutions have been created. This is a major achievement of international cooperation. A real basis has been created for a comprehensive system of international criminal justice. This point cannot be overemphasized.

Such an evolution is due to several factors, including, certainly, to the inherent importance of these judicial institutions and the support of the international community, including the international legal professional community. But above all, that evolution has been possible because of the professionalism, integrity and strong commitment of the judges, prosecutors and other personnel working in the institutions I have mentioned.

Ms. Del Ponte also explained some of the problems, especially that of non-cooperation by some States and entities with the Prosecutor. I think that the basic principle here is that the indicted persons must be transferred to the Tribunal for trial and that the jurisdiction of the Tribunal and the Prosecutor cannot be challenged by States. This is the basic principle, which I think is undisputed in the Security Council.

The real question before the Security Council now is whether and what kind of additional decisions by the Council may be necessary. Members of the Council have referred to possible further measures, which is something that the Council should be thinking about further. In our opinion, it would be important for the Council to start a process of further, more detailed consideration of which steps are to be taken next. The Security Council has the responsibility to provide support and strengthen the effectiveness of the judicial bodies it has created. I would like to invite the Council members to think about how to start such a process.

I now resume my function as President of the Security Council.

I give the floor to Ms. Del Ponte to respond to the comments and questions raised.

Ms. Del Ponte (*spoke in French*): Allow me first to thank all the members of the Security Council for their words of encouragement and congratulation addressed not only to me, but also and foremost to all my colleagues, who have been engaged in this often very difficult work for many years. I would mention that my Deputy Prosecutor, who is seated behind me, has been with the Tribunal since its establishment and is an extremely valuable colleague.

I wish to offer some brief explanations in connection with the questions that have been asked.

First, I will speak to our material and personnel needs. We are here to address the Fifth Committee. We have made what I would describe as a modest request. We have asked for 41 additional posts, 27 of which are solely for investigations in Kosovo. In Kosovo, we have opened 160 mass graves and more than 300 remain to be opened. I believe that this must be done next year. I do not want to leave these corpses in their graves for several years simply because I cannot extract them. I want to do everything I can to get them out next year so that we may get a clear picture of the magnitude of this disaster. Thus, of the 41 posts I have requested, 27 are solely for Kosovo.

I will not trouble members with descriptions of the other posts I have requested, but I will say that I have requested two posts for a financial team. We are going to establish a financial team because fugitives require funding in order to remain at large. I have some indication that their money may also be linked to acts of corruption committed in order to finance their flight. I feel that it is the responsibility of the Prosecutor to confiscate the assets in the fugitives' bank accounts so that, when these cases come to trial, the judges may determine who is to receive the monies impounded by my Office. In this respect, I am of course thinking especially of the families of the victims.

I wish now to address the obstacles we have encountered, especially the length of trials and preventive detention. This is a matter that we are addressing and I sincerely hope that we will be able to find solutions. The biggest problem, in my opinion, is the length of preventive detention. Once an arrest is made, the Office of the Prosecutor is ready to go to trial in 30 to 60 days, but since there are trials under way and the Trial Chambers are occupied, it is not possible to open new trials. Thus, preventive detention may be protracted. This is of growing concern to me. I would point to the statistics. At the moment, we have three trials under way, but eight indictments ready to go to trial. We do not yet know when a date can be set for these cases.

As to the nature of our investigative activities, I have heard that we are suspected of carrying out one-sided investigations. This is not true and I absolutely refute that assertion. It is not true, but I can understand that the data uncovered by our investigations are not considered official by everyone, especially when an indictment has yet to be issued. I can assure the members of the Security Council that my Office is undertaking investigations in which the accused are not only Serbs, but also Muslims and members of the Kosovo Liberation Army (KLA). In this regard, I wish to say that the difficulty in investigating KLA suspects arises from the attitude of the former Yugoslavia and Serbia. Many Serbian victims involved in our investigations have taken refuge in Serbia. We have no access to Serbia; we cannot go there; we have had to close our office in Belgrade. If it is not possible to re-open that office and gain access to the victims, those investigations will have trouble producing results. We are trying to get there and hope that indictments will be issued next year.

Regarding the problem with Croatia, the Croatian Minister of Justice and Minister of Foreign Affairs perhaps had the most dealings with us during our visit to Zagreb. The key point is that the Croatian Minister of Justice challenges the jurisdiction of the Tribunal. I have tried to make the political authorities understand that challenging jurisdiction is done during the trial. It cannot be done before the trial has begun, as in general we cannot accept that kind of exception. I am ready to find a solution to this problem with the Government of Croatia, but the fact that it denies my jurisdiction makes it very hard for me even to engage in discussion.

During my visit to Bosnia and Herzegovina I went to the Republika Srpska and met with the Prime Minister, who stated the intention to cooperate more with us, in a positive way. I alerted him to the fact that probably in that Republic there are approximately 25 fugitives. I very much hope that the verbal assurances we received from the Prime Minister will soon be translated into arrests.

Regarding the sealed indictments, it is true that they are indictments that are not made public. I would simply like to say that in national systems no indictments are published on the Internet or in the press before they are executed. We are working along the same lines. I would also like to say that my predecessor, Louise Arbour, found that that investigative method was very important and received the blessing of the Trial Chamber and the Appeals Chamber, so juridically and judicially it is provided for in the rules and our Statutes. I intend to continue using sealed indictments, since I have more than 30 fugitives who have not yet been arrested, although the arrest warrants date back three or four years. I say to the States concerned in particular that I am ready to discuss these sealed indictments, but after those States have arrested all the individuals still at large.

I should like to say a final word on Rwanda. It is true that I shall be visiting Rwanda. I shall be addressing matters very closely. A problem has arisen, but the Appeals Chamber, in its decision, ruled that the detained person should be transferred to the State of Cameroon. This does not mean that an African State cannot intervene to open a criminal investigation of a suspect against whom — I am assured, but I shall go and see — there is very strong evidence. I will return to the Council with further information on Rwanda.

The President: I thank Ms. Del Ponte for the clarifications and answers she has provided.

There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda. The Security Council will remain seized of the matter.

The meeting rose at 1.05 p.m.